

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MICHAEL D. SMITH,

Petitioner,

v.

ROBERT LEGRANDE, et al.,

Respondents.

Case No. 2:12-cv-01260-MMD-RJJ

ORDER

Petitioner has not responded in this habeas matter to the order (dkt. no. 3) entered on July 20, 2012, directing that he show cause why the petition should not be dismissed without prejudice as wholly unexhausted. Petitioner has not filed a response within the thirty-day period provided. The prior order stated that “[t]he petition will be dismissed without further advance notice if petitioner does not timely respond to this order or fails to demonstrate that the action should not be dismissed without prejudice for lack of exhaustion.” (Dkt. no. 3, at 4.) The order further expressly found that the interests of justice did not warrant the appointment of counsel pending resolution of the show-cause inquiry. *Id.*

IT THEREFORE IS ORDERED that the petition shall be DISMISSED without prejudice and that a certificate of appealability is DENIED.

IT FURTHER IS ORDERED that the motion for appointment of counsel (dkt. no. 2) is DENIED. (See *also* dkt. no. 3, at 4.)

IT FURTHER IS ORDERED that, pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Clerk of Court shall provide a copy of this order, the judgment,

1 and the petition to respondents by effecting informal electronic service upon Catherine  
2 Cortez Masto as per the Clerk's current practice. **No response is required from**  
3 **respondents, other than to respond to any orders of a reviewing court.**

4 The Clerk shall enter final judgment accordingly against petitioner and in favor of  
5 respondents, dismissing this action without prejudice.

6 DATED THIS 17<sup>th</sup> day of September 2012.

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UNITED STATES DISTRICT JUDGE  
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